



OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Suspension of Action: Enforcement of U.S. WTO Rights in the Large Civil Aircraft Dispute

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: On June 15 and June 17, 2021, the United States reached understandings on cooperative frameworks with, respectively, the European Union (EU) and the United Kingdom (UK) regarding the World Trade Organization (WTO) disputes involving large civil aircraft (LCA). In accordance with the understandings reached with the EU and the UK, the U.S. Trade Representative has determined to suspend for a period of five years the action being taken in the Section 301 investigation involving the enforcement of U.S. WTO rights in the LCA dispute.

DATES: The beginning of the five-year suspension period is July 4, 2021, with respect to tariffs on goods of the UK, and July 11, 2021, with respect to tariffs on goods of EU member States.

FOR FURTHER INFORMATION CONTACT: For questions about the investigation or this notice, contact Senior Associate General Counsel Brian Janovitz, at (202) 395-5725, or Director for Europe Michael Rogers, at (202) 395-3320.

SUPPLEMENTARY INFORMATION

A. Proceedings in the Investigation

For background on the proceedings in this investigation, please see prior notices including: notice of initiation, 84 FR 15028 (April 12, 2019); notice of determination and action, 84 FR 54245 (October 9, 2019); and notices concerning revisions or modifications of action, 85 FR 10204 (February 21, 2020), 85 FR 50866 (August 18, 2020), 86 FR 674

(January 6, 2021), 86 FR 9420 (February 12, 2021), 86 FR 13961 (March 11, 2021), and 86 FR 14513 (March 16, 2021).

B. Suspension of Action

On June 15 and June 17, 2021, the United States reached similar understandings on cooperative frameworks with the EU and the UK, respectively, regarding trade in large civil aircraft and the parties' WTO disputes. The understandings provide, *inter alia*, that each party intends to:

- provide any financing to its LCA producer for the production or development of large civil aircraft on market terms.
- provide any funding for research and development (R&D) for large civil aircraft to its LCA producer through an open and transparent process and intends to make the results of fully government funded R&D widely available, to the extent permitted by law, and intends not to provide R&D funding or other support that is specific, to its LCA producer in a way that would cause negative effects to the other side.
- collaborate on jointly analyzing and addressing non-market practices of third parties that may harm their respective large civil aircraft industries. The two sides will implement the annexed understanding on cooperation on non-market economies through the Working Group.
- suspend application of countermeasures for a period of five years.

To effectuate the suspension of the U.S. countermeasures for the five-year period, the U.S. Trade Representative has determined to terminate the current tariff action and to undertake procedures in advance of the end of the five-year period for the possible re-imposition of tariffs under Section 301.

In particular, pursuant to sections 307(a)(1) and 301(a)(2)(B) of the Trade Act, the U.S. Trade Representative has determined to terminate the current action, which was first imposed in the notice of October 9, 2019 (84 FR 54245) and modified in subsequent

notices, effective July 4, 2021, with respect to goods of the UK, and effective July 11, 2021, with respect to goods of EU member States. Pursuant to Section 306 of the Trade Act, and in advance of the end of the five-year suspension period, the U.S. Trade Representative will review implementation by the EU and UK of the framework understandings and their respective measures related to the matters covered in the LCA dispute, and consider a re-imposition of a tariff action under Section 301.

The decision of the U.S Trade Representative to effectuate the five-year suspension in accordance with the framework understandings considers the advice of the interagency Section 301 Committee, advisory committees, and public comments received in response to prior notices issued in the investigation, and consultations with the domestic industry concerned regarding the suspension.

The Annex to this notice modifies the Harmonized Tariff Schedule of the United States to reflect the suspension of the tariff action. The additional duties imposed by subheadings 9903.89.05, 9903.89.07, 9903.89.10, 9903.89.13, 9903.89.16, 9903.89.19, 9903.89.22, 9903.89.25, 9903.89.28, 9903.89.31, 9903.89.34, 9903.89.40, 9903.89.43, 9903.89.46, 9903.89.49, 9903.89.50 and 9903.89.55, and as provided by their associated subchapter notes, will not apply to products of the UK that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 4, 2021. The additional duties imposed by subheadings 9903.89.05, 9903.89.07, 9903.89.10, 9903.89.13, 9903.89.16, 9903.89.19, 9903.89.22, 9903.89.25, 9903.89.28, 9903.89.31, 9903.89.34, 9903.89.37, 9903.89.40, 9903.89.43, 9903.89.46, 9903.89.52, 9903.89.55, 9903.89.57, 9903.89.59, 9903.89.61, and 9903.89.63, and as provided by their associated subchapter notes, will not apply to products of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain,

or Sweden that are entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on July 11, 2021.

Any product of the UK that was admitted into a U.S. foreign trade zone in ‘privileged foreign status’ as defined in 19 CFR 146.41, before 12:01 a.m. eastern standard time on March 4, 2011, will remain subject to the applicable duties in subheadings 9903.89.05, 9903.89.07, 9903.89.10, 9903.89.13, 9903.89.16, 9903.89.19, 9903.89.22, 9903.89.25, 9903.89.28, 9903.89.31, 9903.89.34, 9903.89.40, 9903.89.43, 9903.89.46, 9903.89.49, 9903.89.50 and 9903.89.55 upon entry for consumption. Any product of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, or Sweden, that was admitted into a U.S. foreign trade zone in ‘privileged foreign status’ as defined in 19 CFR 146.41, before 12:01 a.m. eastern standard time on March 11, 2021, will remain subject to the applicable duties in subheadings 9903.89.05, 9903.89.07, 9903.89.10, 9903.89.13, 9903.89.16, 9903.89.19, 9903.89.22, 9903.89.25, 9903.89.28, 9903.89.31, 9903.89.34, 9903.89.37, 9903.89.40, 9903.89.43, 9903.89.46, 9903.89.52, 9903.89.55, 9903.89.57, 9903.89.59, 9903.89.61, and 9903.89.63 upon entry for consumption.

Any product of the UK covered by paragraph 3 of the Annex to this notice, that is admitted into a U.S. foreign trade zone on or after 12:01 a.m. eastern daylight time on July 4, 2021, and any product of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, or Sweden, covered by paragraph 3 of the Annex to this notice, that is admitted into a U.S. foreign trade zone on or after 12:01 a.m.

eastern daylight time on July 11, 2021, may be admitted in any status, as applicable, as defined in 19 CFR 146, Subpart D.

In accordance with section 306 of the Trade Act, in addition to the five-year review, the U.S. Trade Representative will monitor implementation by the EU and UK of the framework understandings and their respective measures related to the matters covered in the LCA dispute, including whether the EU or UK provides new financing to an LCA producer for the production or development of LCA that is not on market terms. If USTR considers that the implementation of the framework understandings or measures related to the WTO dispute are not satisfactory, then USTR will take the most effective action under Section 301 to enforce U.S. WTO rights, which could include the re-imposition of duties.

Annex

1. The additional duties imposed by subheadings 9903.89.05 through 9903.89.63 of the Harmonized Tariff Schedule of the United States (HTSUS), and as provided by their associated subchapter notes, on products of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden or the United Kingdom are terminated as follows. For entries from the United Kingdom, the termination is effective for entries on or after July 4, 2021. For entries from Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, or Sweden the termination is effective for entries on or after July 11, 2021.
2. Note 21(a) to subchapter III of chapter 99 of the HTSUS is modified by deleting “notes 21(u) and 21(v) of this subdivision,” and by inserting “notes 21(u), 21(v), 21(w) and 21(x) of this subdivision,” in lieu thereof.
3. Note 21 to subchapter III of chapter 99 of the HTSUS is modified by inserting the following new subchapter notes in alphabetical order:

“(w) The U.S. Trade Representative has determined that the additional duties imposed by subheadings 9903.89.05, 9903.89.07, 9903.89.10, 9903.89.13, 9903.89.16, 9903.89.19, 9903.89.22, 9903.89.25, 9903.89.28, 9903.89.31, 9903.89.34, 9903.89.40, 9903.89.43, 9903.89.46, 9903.89.49, 9903.89.50 and 9903.89.55, and as provided by their associated subchapter notes, shall not apply to articles the product of the United Kingdom that are entered on or after 12:01 a.m. eastern daylight time on or after July 4, 2021.”

“(x) The U.S. Trade Representative has determined that additional duties imposed by subheadings 9903.89.05, 9903.89.07, 9903.89.10, 9903.89.13, 9903.89.16, 9903.89.19, 9903.89.22, 9903.89.25, 9903.89.28, 9903.89.31, 9903.89.34, 9903.89.37, 9903.89.40, 9903.89.43, 9903.89.46, 9903.89.52, 9903.89.55, 9903.89.57, 9903.89.59, 9903.89.61, and 9903.89.63, and as provided by their associated subchapter notes, shall not apply to articles the product of Austria, Belgium, Bulgaria, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, or Sweden that are entered on or after 12:01 a.m. eastern daylight time on or after July 11, 2021.”

Greta Peisch,

General Counsel,

Office of the United States Trade Representative.

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